U.S. Department of Justice

United States Attorney
Southern District of New York

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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2-28-17

February 27, 2017

The Honorable Analisa Torres
United States District Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, New York 10007

Re: United States v. Morris E. Zukerman
16 Cr. 194 (AT)

Dear Judge Torres:

The United States respectfully submits this letter in response to the February 22, 2017 letter submitted to the Court by counsel for the defendant. In that letter, counsel recited certain facts relating to the sentence imposed by Judge T.S. Ellis, III in *United States* v. *Horsky*, 16 Cr. 224 (E.D. VA 2017), including that Horsky's offense involved the hiding of more than $40 million of income, resulting in an $18 million tax loss; the Government recommended a sentence of 20 months, notwithstanding an applicable Guidelines range of 57-71 months; and that Horsky received a sentence of 7 months in prison.

We write to point out certain aspects of the *Horsky* case that distinguish it significantly from the case of Mr. Zukerman. First, as revealed in the transcript of the *Horsky* sentencing proceeding (which counsel also provided to the Court and the Government, together with the Government's sentencing memo), the Government made a 5K[1] motion at sentencing, which undergirded the Government's sentencing recommendation of 20 months, which represented a significant departure from the Guidelines. (Tr. 15). Second, unlike the defendant in this case, the defendant in *Horsky* took steps almost immediately after being contacted by the IRS to come clean and acknowledge his guilt. *See* Position of the United States with Respect to Sentencing, Docket Entry 26, at 8-9 (noting that defendant commenced plea negotiations two weeks after IRS contact, and signed plea agreement within seven weeks of contact). Finally, at the time of sentencing, the defendant in *Horsky* had, in addition to paying his $100 million FBAR penalty, paid all of his

[1] We have simultaneously made an *ex parte* submission to Your Honor to bring to the Court's attention certain additional information concerning the *Horsky* matter. We have spoken with Mr. Zukerman's counsel, James Bruton, Esq., of our intention to make this submission, and Mr. Bruton has indicated that he does not oppose the *ex parte* nature of the submission. Through this letter, we respectfully request that the Court order that the *ex parte* filing be maintained under seal, for the reasons stated in, and made apparent by, the submission.

outstanding federal and state income tax liabilities in full, together with interest, as well as gift tax liabilities.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: /s/
Stanley J. Okula, Jr.
Special Assistant U.S. Attorney
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cc: Defense Counsel

The Government's request to file the *ex parte* submission under seal is GRANTED.

SO ORDERED.

Dated: February 28, 2017
New York, New York

ANALISA TORRES
United States District Judge